



MISSOURI DEPARTMENT OF MENTAL HEALTH

Keith Schafer, Department Director



DEPARTMENT
OPERATING
REGULATION
NUMBER

DOR
8.100

CHAPTER Regulatory Compliance	SUBCHAPTER HIPAA Regulations	EFFECTIVE DATE 5-16-14	NUMBER OF PAGES 2	PAGE NUMBER 1 of 2
SUBJECT Designated Record Sets		AUTHORITY Section 630.050 RSMo		HISTORY: See Below
PERSON RESPONSIBLE General Counsel			SUNSET DATE 7-1-17	

PURPOSE: It is the policy of the Department of Mental Health (DMH) to identify those records maintained by or for the department and its facilities that meet the definition of designated record set covered by the HIPAA Privacy rule, specifically 45 CFR Section 164.501.

APPLIES: The Department of Mental Health, its facilities and workforce.

(1) DEFINITIONS:

(A) **Designated Records Set:** A group of records maintained by or for a covered entity that is: (a) the medical records and billing records about individuals maintained by or for a covered health care provider; (b) the enrollment, payment, claims adjudication, and case or medical management record systems maintained by or for a health plan; or (c) used, in whole or in part, by or for the covered entity to make decisions about individuals.

(B) **Record:** Any item, collection, or grouping of information that includes protected health information and is maintained, collected, used or disseminated by or for a covered entity.

(C) **Sentinel Event:** A term used by The Joint Commission on accreditation of healthcare organizations (accreditation held by CPS facilities). A sentinel event is an unexpected occurrence involving death or serious physical or psychological injury, or the risk thereof.

(2) PROCEDURE:

(A) All Missouri DMH facilities, including regional offices, shall identify all information systems (defined as an organized collection of information) that contain Protected Medical/Health Information (PHI), including the location, unique system identifier, the form of the data (electronic or paper), the data maintainer, and a description of the type of PHI contained.

(B) That inventory shall be maintained by the facility Privacy Officer or designee, or the Central Office Privacy Officer, if applicable. Assistance may be requested from the Information Services staff. Any new or modified systems shall be added to the inventory by the appropriate Privacy Officer.

(C) In order to maintain an accurate inventory of record systems, when new systems are created, the staff responsible for developing and maintaining the information shall notify the Privacy Officer that the system is in production and it contains PHI. When a current system that contains PHI is no longer used or needed, the staff responsible for maintaining the information shall notify the Privacy Officer so that the inventory system can be amended and the information retained or destroyed according to retention policies.

(D) For the purpose of the implementation of this Department Operating Regulation, the term designated record set includes any item, collection, or grouping of information that includes PHI and is maintained, collected, used, or disseminated by or for the Missouri DMH and its facilities for consumer care or payment decision making including but not limited to:



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1. Medical record and billing records about consumers maintained by or for DMH and/or its facilities;

2. Enrollment, payment, claims adjudication, and case or medical management record systems maintained by or for DMH and/or its facilities; and

3. Any records or information used, in whole or in part, by or for DMH and/or its facilities to make decisions about consumers.

(E) Information that is not part of the Designated Records Set is defined as follows:

1. Any documents that are used for census information, quality assurance or quality improvement, peer review, sentinel event, Centers for Medicare and Medicaid purposes, utilization review, abuse/neglect investigations, incident/injury reports, state auditors, or various electronic databases, etc., which are not used to make decisions regarding an individual consumer; any work therapy employment files; integrated risk assessment, including serious incident history, index crime report, annual synopsis of endangering behaviors, recent predictive behaviors, requests for passes and privileges, forensic release request; law enforcement reports; victim notification information; or REJIS, MULES or NCIC reports;

2. For forensic cases (defined as Chapter 552 or 557, RSMo, evaluations), any forensic evaluation or any correspondence relating to the forensic commitment;

3. For persons referred, considered for referral or committed pursuant to sections 632.480 to 632.525, RSMo, risk assessments, probable cause evaluations, court-ordered evaluations and annual reports;

4. Working files, either paper or electronic, as defined in Appendix A; and

5. Psychotherapy notes (psychotherapy notes are defined in 45 CFR Section 164.501, and are to be kept separate from the medical record).

(F) When an individual or department has been given sanctioned, exclusive possession and control of PHI as part of their assigned duties, they shall be responsible for all administrative duties of a data trustee in terms of security, data access, privacy, data backup, disaster recovery and accountability. When the department or individual does not have the technical expertise or equipment to adequately protect the PHI, they shall arrange for technical assistance either through the Information Systems or Health Information Management Departments to assure the confidentiality of the PHI. Any field staff must refer to DOR 8.080, enumerating the best practices for field staff.

(G) The designated record set shall be created, stored, released, transported, copied and destroyed based on DOR 8.110, Record Retention and Destruction.

(H) SANCTIONS: Failure to comply or assure compliance with the DOR may result in disciplinary action, up to and including dismissal.

(I) REVIEW PROCESS: The Central Office Privacy Officer shall collect information from the facility Privacy Officers during the month of April to monitor compliance with this DOR.

(J) NO LOCAL POLICIES: There shall be no local policies. This Department Operating Regulation shall control.

HISTORY: Emergency DOR effective January 15, 2003. Final DOR effective June 1, 2003. Amendment effective July 1, 2006. On July 1, 2009, the sunset date was extended to July 1, 2012. Amendment effective January 10, 2011. Amendment effective May 16, 2014.

APPENDIX A

(A) Working files, either paper or electronic, are not included as part of the designated records set. Working files are typically held by staff working or meeting with consumers away from a facility-based setting. Such workers may include: mental health coordinators, forensic case monitors, supported community living staff, regional office case managers, etc. Working files may consist of copies of records that are included in the designated records set.

(B) Examples of this information may include, but not be limited to, copies of: current Personal Plan, ITP, IEP, Personal Care Plan, guardianship information, current MOCABI or Vineland, client budgets, correspondence (including e-mail), face or cover sheet (including demographic information), behavior support plan, discharge summary, any necessary monthly or quarterly reports, authorizations, conditional release plan, etc.

(C) For mental health coordinators, working files consist of any papers that are part of the civil investigative process, and may include commitment application, referral sheets, witness interviews, summaries and/or disposition of investigations, personal notes, or law enforcement contact information. NOTE: Mental health coordinators do not use the above referenced records to make treatment decisions, but instead simply to recommend if the statutory commitment test is met.

(D) For forensic case monitors, the term working file includes copies of intake summary, conditional release plans/orders, commitment orders, treatment plans, discharge summaries, or victim notification information, etc.

(E) However, forensic case monitor files also contain information that is considered part of the designated records set. That information includes, but is not limited to, face sheet, forensic case monitor progress notes, original correspondence (both sent and received, including letters, memos, etc.) except for original correspondence relating to the forensic commitment described in (2)(E)2 above, amended conditional release orders and/or immediate conditional release orders, diagnostic test results (e.g. blood alcohol tests), pass request forms or out of state travel request forms, authorization forms, and records from providers or private facilities. They will also contain original authorization forms as signed by the consumer when appropriate.